



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)		
)		
ROSETTA SIMPSON,)		
)		
Complainant,)		
)	Charge No.:	1999CP2022
and)	EEOC No.:	N/A
)	ALS No.:	11147
S. K. & V., INC., d/b/a)		
COZY CORNER RESTAURANT,)		
)		
Respondent.)		

RECOMMENDED ORDER AND DECISION

On January 6, 2000, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Rosetta Simpson. That complaint alleged that Respondent, S. K. & V., Inc., d/b/a Cozy Corner Restaurant, discriminated against Complainant on the basis of her race when it denied her full and equal enjoyment of its public facility.

This matter now comes on to be heard on Respondent's Motion to Dismiss. Respondent argues that Complainant's inaction justifies dismissal of the case. Complainant has failed to respond to the motion.

FINDINGS OF FACT

The following findings of fact are based upon the case file for this matter.

1. On March 8, 2000, an order was entered which scheduled discovery and other matters, including a final status

date of October 16, 2000.

2. Neither party appeared for the final status hearing on October 16. An order was entered which scheduled a new status date of November 13, 2000. That order was served by mail on both parties.

3. Although Respondent appeared by counsel on November 13, 2000, Complainant did not appear. An order was entered which gave Respondent leave to file a motion to dismiss and scheduled a hearing on said motion for December 11, 2000. A copy of that order was served upon Complainant by mail.

4. Respondent filed its Motion to Dismiss on November 14, 2000 and served that motion upon Complainant by mail.

5. Complainant did not file a response to Respondent's Motion to Dismiss or appear at the December 11, 2000 hearing on the motion.

CONCLUSIONS OF LAW

1. By her failure to appear at scheduled status hearings or to file any document to explain those failures, Complainant has unreasonably delayed the proceedings in this case.

2. The appropriate sanction for Complainant's failure to prosecute this matter is dismissal of the action with prejudice.

DISCUSSION

Complainant, Rosetta Simpson, appeared the first time this case was up, on March 8, 2000. Since that time, however, she has failed to appear at scheduled status hearings or to respond

in any way to Respondent's Motion to Dismiss.

For a period of over nine months, despite a motion to dismiss and service of two orders from the Commission, Complainant has taken no action whatsoever to prosecute this case. Apparently, she has abandoned her claim. As a result, it is appropriate to dismiss the claim with prejudice. See **Leonard and Solid Matter, Inc.**, ___ Ill. HRC Rep. ___, (1989CN3091, August 25, 1992).

RECOMMENDATION

Based upon the foregoing, it appears that Complainant has abandoned her claim. Accordingly, it is recommended that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: January 11, 2001